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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition No. 2864 of 1997

PETITIONERS

1) Ram Vilas, S/o. Sukhlal Sahu, age 31 years, r/o. village Dabripara, Teh Surajpur, Dist. Sarguja, MP.

2) Kamalakar, S/o. Narayan Saidani, age 29 years, R/o. village Bishrapur, Teh – Surajpur, Distt. Sarguja, MP.

3) Jagnarayan Singh, S/o. Anand Singh Gond, age 31 years r/o. village Madaneshwarpur, Teh-Surajpur, Distt- Sarguja, MP.

4) Ramlakhan Singh, S/o. Amarsai Gond age 32 years, r/o. village Shivprasad Nagar, Teh-Surajpur, Distt- Sarguja, MP.

5) Brij Mohan, S/o. Jagroop Yadav, r/o. village Narayanpur Teh-Surajpur, Distt- Sarguja MP.

6) Kameshwar, S/o. Kapildev Prasad Rajwar, r/o. village Sarma Teh Surajpur, Distt. Sarguja, MP.

7) Ghuran Singh, S./o. Mansai Gond, age 31 years, r/o. village Tendupara, Teh-Surajpur, Distt. Sarguja, M.P.

8) Indal Ram, S/o. Budhiram, age 30 years, r/o. village Khopa Teh-Surajpur, Distt – Sarguja, MP.

Versus

RESPONDENTS

1) South Eastern Coalfields Limited through its General Manager, SECL, Bilaspur, AT & PO – Bilaspur, MP.

2) Chief General Manager, SECL, Baikunthpur, Teh-Baikunthpur, Distt- Sarguja, MP.

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3) General Manager, SECL, Bhatgawa Area, AT & PO Bhatgawa, Dist. Sarguja MP.

4) Sub Area Manager, SECL, Bhatgawa, AT & PO- Bhatgawa, Dist. Sarguja, MP.

(Writ Petition under Article 226/227 of the Constitution of India)

SB: Hon'ble Mr. Satish K. Agnihotri, J.

Present: Shri F.S. Khare, counsel for the petitioners.
Shri Vivek Verma, counsel for the respondents.

ORDER

(Passed on 1st August, 2007)

According to the learned counsel appearing for the petitioners, the petitioners were selected for appointment on the post of Category-1 Mazdoor in Bhatgawa colliery of the South Eastern Coalfields Limited in the year 1984-1985. Despite their selection, the petitioners were not appointed on the said post. The petitioners have filed this petition in the month of July, 1997, after a long delay of 12 years.

2) The petitioners pray for relief on the basis of the order dated 21-4-1987 passed by the High Court of Madhya Pradesh at Jabalpur in M.P.No.1002/1985 (Prabhakar Singh and others Vs. General Manager, Western Coalfields, Baikunthpur and others), wherein the Hon'ble Division Bench disposed of the petition expressing hope that if the petitioners have been found fit to be appointed as Loaders, their cases should be considered by the respondents sympathetically. Thereafter, one more petition i.e., M.P. No. 2944/1989 was filed. In the meantime, some persons were appointed.

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3) Be that as it may, the petitioners have not approached the Court within reasonable time and they have chosen to take recourse to writ jurisdiction in the month of July, 1997, after lapse of about 12 years, seeking a direction that the petitioners be granted the same relief as granted to 12 similarly situated persons in M.P. No.2944/1989. This writ petition deserves to be dismissed, at this stage, on account of unexplained inordinate delay of 12 years.

4) It is well settled that High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic as the belated approach may have the effect of inflicting not only hardship as inconvenience but also injustice on other parties.

5) The Supreme Court in the case of **P.S. Sadasivaswamy Vs. State of Tamil Nadu**[1] observed as under:

> "It is not that there is any period of limitation for the Courts to exercise their powers under Article 226, nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Articles 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters".

6) The Supreme Court in the case of **State of M.P. & others Vs. Nandlal Jaiswal and others**[2] further observed as under:

> "Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist tardy and the indolent or the

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[1] AIR 1974 SC 2271
[2] (1986) 4 SCC 566

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> acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactory explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with reference to various decisions of this Court where it has been emphasized time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal".

7) The Supreme Court in the case of **Burn Standard Co. Ltd. & others Vs. Dinabandhu Majumdar & another**[3] also observed as under:

> "The very conduct of non-raising of an objection in the matter by the employee, in our view, should be a sufficient reason for the High Court, not to entertain such applications on grounds of acquiescence, undue delay and laches".

8) Applying the well settled principles of law to the facts of the present case, the petitioners are not entitled to any relief. The petitioners have slept over their rights, if any, for more than 12 years.

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[3] (1995) 4 SCC 172

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Even otherwise, by virtue of the selection, the petitioners do not acquire any indefeasible right to be appointed on the said post, unless it is found that the appointment of some juniors in the select list has been made or the appointments were made on the basis of pick and choose, arbitrarily.

9) As a result and for the above stated reasons, this writ petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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